

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RYAN KERWIN

: CASE NO. 05-93 ERIE
'06 DEC 18 P1:53

VS.

: MAGISTRATE JUDGE SUSAN BAXTER
CLERK
U.S. DISTRICT COURT

LT. WILLIAM MCCONNELL

: DISTRICT JUDGE SEAN MCLAUGHLIN

MOTION FOR PRODUCTION OF TRANSCRIPTS

1. On November 29, 2006 this court issued an order (Doc. #64) dismissing the Defendant's Motion for Summary Judgment without prejudice and instructing the defendant, sua sponte, to refile the motion raising a failure to exhaust administrative remedies defense within 30 days of that order. (December 29, 2006)
2. On December 3, 2006 plaintiff filed objections to that order (Doc. #65) and made reference to testimony that was given at the March 3, 2006 sanctions hearing (Doc. #54) where the defendant's counsel verbally conceded that plaintiff properly exhausted his administrative remedies and expressed their intent to waive that defense.
3. However, plaintiff is not currently in possession of the transcripts in question and he now requires them to properly support his objections.
4. In the event plaintiff's objections are not resolved by December 29, 2006 plaintiff will also need the transcripts to oppose the defendant's renewed motion for summary judgment and he will need them on or before that date.
5. Plaintiff is an indigent, pro se prisoner and he does not have

sufficient funds to pay for the transcripts in question.

(Let it be noted that it is by way of this court's error that plaintiff is in need of these transcripts in the first place. Let it also be noted that plaintiff sent a letter to defense counsel on December 4, 2006 seeking her concurrence on his objections to avoid the need for the production of the transcripts in question and to expedite the resolution of the current motion for summary judgment. **(Exhibit A)** However, defense counsel has refused to respond to that letter.)

WHEREFORE, plaintiff respectfully requests that this honorable court provide him with copies of the transcripts from the March 3, 2006 sanctions hearing on or before December 29, 2006 and, due to the fact the court's error has made the production of these transcripts necessary, provide them to plaintiff free of charge.

Respectfully submitted,

12/14/06

Date

Ryan Kerwin

Ryan Kerwin
DZ0246
S.C.I. Albion
10745 Route 18
Albion, PA. 16475-0002

A

Mariah Passarelli,

12/4/06

In re: Kerwin vs. McConnell,
Case #05-93 ERIE

#64

Earlier today I mailed out my objections (Doc. #65) to the Magistrate Judge's order (Doc.) in the above-captioned case. The order in question dismisses your office's motion for summary judgment without prejudice and instructs you to refile another one raising an affirmative defense that your office has already voluntarily waived and conceded had no chance of success on the merits.

I am writing you in an attempt to obviate the need for my objections and expedite the resolution of the current motion for summary judgment by seeking your concurrence on the objections. After all, it is an irrefutable fact that the defense the judge is instructing you to raise is both waived and meritless.

Please read my objections (Doc. #65), review the transcripts in relation thereto (I would appreciate copies of the relevant portions of the transcripts if you have them transcribed) and write me back as soon as possible informing me of where you stand on the matter. Courteous professionalism on this matter would be greatly appreciated.

Respectfully,

Ryan Kerwin
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